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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/732,726

12/10/2003

William T. Ball

5564-152

2017

22442

7590

06/02/2008

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

EXAMINER

FETSUGA, ROBERT M

ART UNIT

PAPER NUMBER

3751

MAIL DATE

DELIVERY MODE

06/02/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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10732726	12/10/2003	BALL, WILLIAM T.	5564-152

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

EXAMINER

Robert M.. Fetsuga

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Commissioner for Patents

SUPPLEMENTAL EXAMINER'S ANSWER

In addition to the letter mailed May 01, 2008, the following comments are made to address the apparently new argument raised in the "REPLY BRIEF" (reply) filed March 17, 2008. The argument in the reply that "Oropallo does not qualify as prior art" (pg. 5), is meritless. Appellant appears to rely upon a filing date benefit of prior application serial no. 09/593,724 ('724) in support of this statement. However, the official USPTO records indicate the '724 application became abandoned June 17, 2002, prior to the filing of intervening application serial no. 10/229,533 ('533). The '533 application was filed August 28, 2002, and therefore was not copending with the '724 application. Absent copendency, a filing date benefit cannot be made. This issue was fully addressed in appellant's related appeal case, application serial no. 10/674,862 ('862). An accepted brief was filed April 12, 2008 in the '862 application.

/KAREN M. YOUNG/
Director, Technology Center 3700

/Robert M. Fetsuga/
Primary Examiner, Art Unit 3751